

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
June 27, 2006**

Place: Room 206  
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Conze, Forman, Spain, Kenny, Bigelow

STAFF ATTENDING: Ginsberg, Keating  
COURT RECORDER: Syat

At 8:00 P.M., Chairman Damanti read the first agenda item:

**GENERAL MEETING**

*Discussion, deliberation and possible decision on the following item:*

**Business Site Plan #156-A, Darien-Rowayton Bank/Dolcetti, Inc., 995-1003 Boston Post Road.** Proposing to raze the existing buildings at 995 and 1003 Boston Post Road (on Lots #27 and #28) and to construct a new mixed-use building with related landscaping, open space plaza, and parking, and to perform related site development activities. A shared parking agreement with 975-987 Boston Post Road and 2 Squab Lane (Lots #29, #30, and #34) is proposed to serve all of the subject properties. *THIS APPLICATION WAS WITHDRAWN ON 6/21/2006.*

It was noted that this application had been withdrawn. Mr. Damanti read the next agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing regarding Special Permit Application #242, Mary Kay Kosnik, 50 Horseshoe Road.** Proposing to construct a tennis court and perform related site development activities. The subject property is on the west side of Horseshoe Road, approximately 500 feet north of its intersection with Allwood Road, and is shown on Assessor's Map #8 as Lot #322 in the R-2 Zone. *PUBLIC HEARING OPENED ON MAY 23, 2006*

Attorney Wilder Gleason, and Steve Shindler, the husband of the property owner, were present to discuss the application. Mr. Gleason said that in response to the neighbors concerns, the neighbors have hired an engineer, and Ms. Kosnik has had the drainage plans revised to incorpoate suuggestions from that engineer. Professional Engineer Dean Martin, of Grumman Engineering, said that they have added on-site retention galleries, and increased the size of the galleries, and relocated some of the galleries away from the neighbor. They have tested the soil for percolation, and it has shown good results. They will provide a trench drain to collect water and direct it to the galleries. He said that once a year, the trench drain will need to be cleaned out by the owner, and have minor maintenance, such as removing leaves in the fall.

Mr. Spain said that the pool was originally designed behind the house, and then a decision was made to move it to the side of the house. He asked how the pool and terrace drainage was accounted for in the revised location. Mr. Gleason said that the revised location did not require a

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drainage plan, as drainage is not usually addressed in normal as-of-right zoning applications. Mr. Martin said that in this revised plan, drainage from the pool and its associated terrace have been accounted for. Mr. John Hertz said that all of the drainage structures as part of the original plan were installed, even though there was not as much terrace. Mr. Martin said that per the original plan, the roof water was directed to the galleries.

Ms. Sharon Baird of 40 Horseshoe Road said that she appreciates the continuation of the public hearing. She hired an engineer, and his comments have been incorporated into this plan. She is satisfied, based upon this newest revised plan. She has been assured that there will be no lights associated with the tennis court. The neighbor will be adding more trees to provide more screening, and create a buffer. They have opened lines of communication with the neighbor, who has been very responsive. There were no other comments from nearby property owners.

Mr. Spain asked why the excavation for the tennis court was started prior to obtaining the necessary permit. Mr. Hertz responded that the site work was shaped in, due to the removal of large piles of fill that had been stored there. The tennis court has been talked about for nine months. Mr. Spain noted that the tennis court is closer to the neighbor's house than the applicant's house. He had concern about the noise on the court being reflected by the poolhouse building then towards the neighbor.

Mr. Gleason then referred to a letter recently received from Laurie Williamson, which raises issues, but she lives about ½ mile away. He said that everything complies with setbacks and the Zoning Regulations. Mr. Schindler said that he is the property owner's husband. He moved the original location of the pool to accommodate the neighbors in the rear. He is not trying to aggravate the neighbors or incrementalize development. He plans to have the neighbors use the court and enjoy the neighborhood.

Mr. Kenny noted that Mr. Hertz has worked as a builder in town for many years, and should not have started shaping in the tennis court with first obtaining the necessary permits. He said that starting work without permits is inappropriate for someone with this much Darien building experience. He had concern about the plantings and whether they are adequate. He noted that any landscaping/ buffer planting needs to be installed and maintained. Mr. Gleason said that many large trees have already been planted.

There being no questions or comments from the general public or Commission members, at 8:30 P.M., Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Mr. Spain and unanimously approved. Mr. Damanti read the next agenda item:

**Business Site Plan #171-C/Special Permit, Thomas Golden Realty Co., 1063 Boston Post Road and Amendment of Business Site Plan #90-K, Pear Partners, LLC., 1077 Boston Post Road.** Proposing to establish a bakery/restaurant in the first floor space formerly approved for a bank and other retail space; construct additional parking, establish a loading zone, a trash/recycling area, and outdoor dining area on the adjacent property at 1077 Boston Post Road; and perform related site development activities. The subject properties are located on the northwest side of Boston Post Road, approximately 210 feet southwest of its intersection with Brook Street, and are shown on Assessor's Map #73 as Lots #8, and #7 and #42, in the CBD Zone.

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Attorney Jackie Olschan, of Sandak Hennessey and Greco, was present on behalf of the property owners, Thomas Golden Realty and Pear Partners. She said that at 1063 Boston Post Road a two story building with 4,000+/- square feet on each floor was recently approved. The first floor was to be a bank and other retail space, and the second floor was approved as offices. There were a total of 26 parking spaces required and approved by the Commission. They are requesting a Special Permit for Panera Bread, which has many baked goods, and serves breakfast, lunch, and dinner. They will be occupying the entire first floor (about 3,754 +/- square feet) and 1500 square feet of storage in the basement. There will be a maximum of seven employees at one time, and they achieve about 20% of their revenue from the sale of baked goods. The dough is not made on-site.

Mr. Tony Disanza of Panera Bread explained that dough is delivered daily by box truck. They bake bread from 10 PM to 5 AM. The dough, which is delivered daily, is taken off of the delivery truck via carts, which are wheeled into the building. Ms. Olschan explained that there is both a delivery area at the far end of the parking lot and an unloading area on Boston Post Road in front of the building in off-peak hours. There is no formal loading dock proposed. Mr. Thomas Golden added that if for any reason the loading zone is illegally occupied, then the truck could park temporarily on Grove Street or Boston Post Road. Mr. Ginsberg said that Section 909 of the Zoning Regulations regarding loading must be complied with, unless specifically waived by the Commission. Mr. Spain had concern about the size of the trucks, because of their required maneuvering.

Mr. Disanza said that they expect a produce truck five days a week, which are generally box trucks. On occasion, maybe two days a week, there would be a vendor truck which may be larger. There will be nothing delivered between 10AM and 2PM. They would make arrangements with the vendor regarding deliveries. Mr. Damanti asked whether the turnaround space next to the building could become the delivery/drop-off area for use by smaller trucks.

Mr. Golden said that the State of Connecticut looks to the Town to control parking on Boston Post Road. Mr. Kenny asked whether the Post Road could be used for deliveries at off-peak hours. Mr. Golden said that more parking will be provided in front of the theater on Boston Post Road when the existing yellow line on the curb is eliminated. Mr. Damanti said that a loading area is needed near the building, and because of the nature of the tenant, a loading space is advisable. Ms. Olschan said that Panera Bread proposes to be open from 6:30 AM to 9 PM. At their peak time (12-1PM), there will be about 35-40 customers per hour. The average cost will be \$5 for breakfast and \$7-\$8 for lunch. There will be entrances to Panera Bread on both Boston Post Road and in the rear of the building. The outside dining was approved by ARB for up to six tables and twenty seats. Mr. Damanti said that the plans need to be modified to show a doorway to the outdoor dining. Inside, there will be up to 65 seats and 18 tables. There will be self-service, and no bussing of tables. There will be no liquor license, everything is non-alcoholic. The walkway between the theater at 1077 Post Road and the proposed restaurant at 1063 Post Road has already been approved. The outside seating will be in that area. The remaining width of the pedestrian walkway will be about 10-12 feet. The proposed cedar screening panels were not acceptable to the Architectural Review Board (ARB) and will not be installed. It was noted that the Planning and Zoning Commission might want some modified version of the panels installed.

Mr. David Sullivan of Barkan & Mess said that he looked closely at Cusi (also on Boston Post Road in Darien) for a comparison. They have their peak parking demand at lunchtime. They have 144

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customers peak at lunch. About 24% of those customers walk to the restaurant. Of the remaining, 1/3 park on the street, and 2/3 in the rear lot behind the restaurant.

Mr. Sullivan then explained his parking demand estimates for the proposed Panera Bread. He estimated that about 18 vehicles will park exclusively to use the restaurant. About 9 will park on site and also go elsewhere. He said that 27-30 spaces will be needed. He noted specifically that Panera Bread has quick meals, and customers are not likely to be there for an hour and a half. He added that employees will need to park off-site so as not to take spaces away from customers.

In response to Mr. Galante's report, it was noted that the outdoor seating will be seasonal. There will be 20 outdoor seats here versus 6-8 at Cosi. The other Panera Bread locations are in very different shopping situations. Approximately 28 parking spaces are what will be needed.

Mr. Michael Galante of FP Clark then reviewed his June 26, 2006 comments. He agreed that 28 or so parking spaces will be needed for customers. They will be providing 26 spaces, and all employees will need to park off-site. The lunch peak will coincide with peak uses of municipal and on-street parking. The upstairs of the building was assumed to be office employees who also park off-site.

Ms. Forman noted that according to the existing Darien Zoning Regulations, the restaurant would need 38 parking spaces and the upstairs offices would need 16 spaces for a total of 54 spaces. They are actually providing 26 spaces, which is slightly less than half. Mr. Spain mentioned that for downtown parking, there is a synergy of available parking spaces that is not available for many other parts of Town. Mr. Golden responded that for a downtown area, 2 ½ cars per 1,000 square feet is a better standard to use, instead of the existing 10 spaces per 1,000 square feet.

Ms. Olschan explained that the exhaust and venting system will both be inside the building to the roof, and the HVAC equipment will also be on the roof. Mr. Conze and Mr. Damanti agreed that the proposed restaurant use will need a scrubbing system to eliminate odors, and be careful to impact the upstairs office tenants. Mr. Disanza said that the mechanical engineer will include this in the plans.

Ms. Moore of 26 Gideon Lane was concerned about the odors due to the proposed baking and cooking. There will also be noise from the refuse pick-up. She said that relative to the truck delivery area, trucks now rev their engines to get through, and disregard the existing speed bump. Ms. Ruth Ann Ramsey of 30 Gideon Lane showed photos of the existing greenery, showing the existing buffering. Much of it will be lost due to the proposed expanded parking lot at 1077 Boston Post Road. Mr. Golden responded that they will not be taking any trees down, and will plant along the proposed wall/fence. Ms. Ramsey continued, noting that under the previous approval, there would be limited hours for the bank, and now it will be a 24-hour a day bakery and a busy restaurant during the day. There needs to be something to create an effective buffer and attractive landscaping like Dolcetti and Glassmeyer installed on Grove Street. The time of day use is now very limited, and Panera will be open earlier and later and create the need for an unloading zone. She said that the Commission must balance the residents' rights and commercial development, but now this is proposed to be much more intense than in the past. The existing trees are deciduous, and the removal of lower limbs will have an impact.

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Ms. Diane Horton, also of Gideon Lane, said that she is the unit owner who lives 25 feet from the existing fence. She said that the Dolcettis planted 35 arborvitae along the fence on the Clock Hill Homes property line. There was a serious problem with truck noises at the Melting Pot which had to be addressed. Truck vibrations and headlights projecting light into the Clock Hill Homes units will have negative impacts. She added that no plans were submitted about the plantings to be installed or maintained. The bumpers of the vehicles in the newly created spaces at 1077 Boston Post Road will be up against the fence. She suggested leaving space beyond the fence for new dense screening plantings. She said that issues include: security, noise and vibration, and odors.

Mr. David Genovese said that he would prefer to have a restaurant at this location than a bank. There is a fundamental change to make downtown customers park once and want to walk to a variety of uses and businesses. He said that he is in support of this project.

Ms. Olschan explained that she had spoken with Ms. Moore and noted that Condition B in the previous approval of the parking requires a detailed landscaping plan. They will consult with Clock Hill Homes. They will maintain the trees in the three foot space and supplement as possible. They will be installing a scrubber ventilation system.

At 10:00 PM, the Commission then took a five minute recess. After that recess, Mr. Damanti announced that regarding the following application:

**Land Filling & Regrading Application #162, Michael & Cynthia Grant, 8 Circle Road.**

The applicant has requested that the public hearing be opened this evening and immediately continued to July 18, 2006 at 8:00 PM in room 206 of Town Hall. This will allow them to work with the neighbors on an appropriate solution. A motion to continue the hearing was made by Mr. Conze, seconded by Mr. Kenny and unanimously approved.

Ms. Olschan then continued by noting the proposed changes to the property at 1077 Boston Post Road. They are:

- 1) they will be changing a portion of the already-approved pedestrian walkway to accommodate seating for up to 20 Panera Bread customers;
- 2) there will be parking reconfiguration and striping. They will be increasing the number of parking spaces, and she had a handout to compare approved and present request;
- 3) revised transformer area;
- 4) adding a back door to the existing Dumpster area—an easement will be granted for access to this area;
- 5) adding a truck unloading space, as it is not very workable to have deliveries next to the building.

Deliveries of fresh food will be difficult from the unloading space 125 +/- feet away. They will work with the Darien Health Department to make sure there is no problem.

There being no further comments or questions, Mr. Conze make a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny, and unanimously approved.

Mr. Damanti read the next agenda item:

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**Proposed Amendments to the Darien Zoning Regulations.** Proposals to amend Sections 210 (Add definition of Catering Business and Modify definition of Story), 311 (Add MU to list of Zones), 371 (Size of Cupolas), 513 (Regarding Moderate income housing definitions and resale values), 664 (Add Catering Business to Special Permit Uses), 904 (Add Catering Business to parking requirements), 922b (signs), 922c (signs) and 1022 (require site plan review for all non single-family residential developments in all zones) of the Darien Zoning Regulations.

Planning & Zoning Director Jeremy Ginsberg explained the proposed Regulation amendments, which were lettered A-I. He explained that the State of Connecticut DEP sent a letter with “no comment”. SWRPA also had “no comment” on this proposal. He added that Items A, F and G specifically address Catering Businesses within the Service Business (SB) Zone. He said that Item C is a housekeeping measure—to add MU to the list of Zoning Classifications in Section 311.

Mr. Ginsberg further explained that Item B, amendments to Section 210--the definition of story, is to codify present and past practice. Item D also reflects existing staff interpretations regarding the minimum size of a cupola. He added that Item E regarding the calculation for moderate income units is to specifically state which salaries are to be included, and to codify current practice. Item H is to have less restriction on contractors’ signs than at present. He said that these proposed changes to the sign regulations in Section 922 would make the Regulation simple and clear.

Attorney Wilder Gleason said that there is now a catering business within the CBD zone, and asked whether by specifically defining this type of business, would the Planning and Zoning Commission then be making this existing catering business non-conforming? Is that the Commission’s intent? He said that the cupola restriction is now too severe, and there is a 15% maximum within the Regulations. Attorney Robert Maslan said that there needs to be more clarification on some of the proposed Regulations.

There being no questions or comments from the general public or Commission members, Mr. Bigelow made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

At about 11:00 P.M., Mr. Damanti read the next agenda item:

**Business Site Plan #194-E/Special Permit, BMW of Darien/Callari, for property at 126 Ledge Road.** Proposing to install a paved parking area with associated drainage, on land to be leased from the Town of Darien at 126 Ledge Road, and perform related site development activities. The subject property is on the north side of Ledge Road, approximately 1000 feet west of its intersection with Boston Post Road, and is shown on Assessor’s Map #39 as Lot #21 in the SB Zone.

Attorney Wilder Gleason was present on behalf of Mr. Callari. He said that he had secured a lease for the land from the Town. He submitted a portion of the Assessors Map showing the subject property. Map #4257 shows the land swap. He explained that EPC has approved the request. The land is now used by the Town for storage of materials for the Parks and Recreation Department. Mr. Callari wishes to pave it, install lighting consisting of two 16 foot high poles, with the lights not facing the nearby residences. There will be a storm drainage system with a water quality basin to protect Cummings Brook. Mr. Gleason noted the recent ARB approval. Mr. Callari will be adding an oil/grit separator.

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There being no questions or comments from the general public or Commission members, Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Mr. Bigelow and unanimously approved.

Mr. Damanti read the next agenda item:

**Land Filling & Regrading Application #162, Michael & Cynthia Grant, 8 Circle Road.** Proposing to place fill and regrade and lower an existing retaining wall and perform related site development activities.

It was noted that earlier this evening, the Commission continued the public hearing on this matter until July 18, 2006 at 8PM in room 206 of Town Hall, and Mr. Damanti read the next agenda item:

**Special Permit Application #243, Nielsen Company, 1405 Boston Post Road.** Proposing to establish a catering business in a portion of the existing Nielsen's Florist Garden Shop & Greenhouses building at 1405 Boston Post Road; and perform related site development activities. The subject property is located on the northwest side of Boston Post Road, approximately 50 feet southwest of its intersection with Thorndal Circle, and is shown on Assessor's Map #39 as Lot #15, in the SB Zone.

Mr. Joseph Viesta explained that he is proposed the establishment of a catering business in the existing Nielsen's Florist Building at 1405 Boston Post Road. There will be no sit down service. The area will be approximately 1,000 square feet of total use. There will be parking in the rear for the one delivery truck. There will be no outside storage or storage units. Mr. Viesta will work with the Health Department regarding odors, fumes, dumpsters and grease traps. Formal kitchen plans will be needed. There will be no frialator, just an eight-burner oven. Mr. Viesta confirmed that they will be adding an exhaust vent.

There being no questions or comments from the general public or Commission members, Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti read the next agenda item:

**Flood Damage Prevention Application #242, Francis & Susan Collins, 18 Mayflower Road.** Proposing to construct additions and alterations to the existing residence and perform related site development activities within a regulated area. The subject property is located on the west side of Mayflower Road, approxiamtley 250 feet south of its intersection with Shipway Road, and is shown on Assessor's Map #55 as Lots #46 and #47 in the R-NBD Zone.

Mr. Ginsberg explained that all of the neighbors had "signed off" on the Collins application, and the Commission has the ability to waive the public hearing on this matter. Mr. Ginsberg said that he expects slightly refined plans. No members of the public were present. The Commission unanimously voted to waive the public hearing on this application, and have staff receive revised plans from the Collins' and act upon those plans. If the plans are substantially revised, the Commission will formally review and act upon the application.

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There being no other business, the meeting was then adjourned at 11:30 P.M.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director

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